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Attorneys for Plaintiff
 Inna Vigdorchik

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

INNA VIGDORCHIK, on behalf of herself
 and all others similarly situated,

Plaintiff,

v.

CENTURY THEATRES, INC., and
 CINEMARK USA, INC.

Defendants.

) Case No. C07-0736 MMC
)
) CLASS ACTION
)
) **JOINT STIPULATION AND**
) **[PROPOSED] ORDER TO STAY**
) **ACTION PENDING APPELLATE**
) **REVIEW OF CLASS**
) **CERTIFICATION ORDERS IN**
) **FACTA CASES**
)
) [15 U.S.C. §§ 1681 *et seq.*]
)

STIPULATION

Plaintiff Inna Vigdorichik ("Plaintiff") and Defendant Century Theatres, Inc. ("Defendant"), by and through their counsel, and subject to Court approval, hereby stipulate as follows:

WHEREAS, Plaintiff filed a Complaint in this action on April 25, 2007, alleging a violation of the Fair and Accurate Credit Transactions Act, 15 U.S.C § 1681c(g) ("FACTA");

WHEREAS, Defendant filed its Answer to the Complaint on May 15, 2007, and the other named defendant, Cinemark USA, Inc. has been dismissed from the lawsuit;

WHEREAS, there are currently nearly one hundred (100) cases pending in the United States District Courts in California against businesses for alleged violations of the FACTA;

WHEREAS, Plaintiff's allegations in the Complaint are similar to the allegations made in other FACTA cases;

WHEREAS, Plaintiff intends to file a motion for class certification;

WHEREAS, courts in the United States District Court for the Central District of California have denied class certification in several FACTA cases including:

Spikings v. Cost Plus, Inc., Case No. CV 06-08125;

Parseghian v. Bally North America, Inc., Case No. CV 07-00347;

Najarian v. Charlotte Russe, Inc., Case No. CV 07-00501;

Soualian v. Int'l Coffee and Tea, LLC, Case No. CV 07-00502;

Najarian v. Avis Rent A Car Systems, LLC, Case No. CV 07-00588;

Torossian v. Vitamin Shoppe Industries, Inc., Case No. CV 07-00523;

Price v. Lucky Strike Entertainment, Inc., Case No. CV 07-0960; and

Evans v. U-Haul of California, Inc., Case No. CV 07-2097.

WHEREAS, Defendant intends to oppose Plaintiff's motion for class certification in part based upon some of the same legal and factual bases that other

1 courts in the Central District of California have relied upon to deny class certification in
2 the above mentioned cases;

3 WHEREAS, the Ninth Circuit Court of Appeals granted the plaintiff's petition
4 for leave to appeal the denial of class certification in *Soualian v. Int'l Coffee and Tea,*
5 *LLC*, Appellate Case No. 07-56377, on September 13, 2007;

6 WHEREAS, courts in the United States District Court for the Northern District
7 of California have denied motions for class certification without prejudice pending
8 resolution of the *Soualian* appeal in two FACTA cases including *Moon v. FedEx-*
9 *Kinko's*, Case No. C 06-7657 SI (N.D. Cal. Oct. 15, 2007) ("In light of the Ninth
10 Circuit's review of *Soualian*, the Court finds it prudent to deny plaintiffs' motion
11 without prejudice to renewal after *Soualian* is decided (Docket No. 87)."), and *Hile v.*
12 *Frederick's of Hollywood*, Case No. C 07-0715 SC (N.D. Cal. Oct. 17, 2007) ("Once the
13 Ninth Circuit issues an opinion in the pending case of *Soualian*, Plaintiff may refile a
14 Motion for Class Certification.");

15 WHEREAS, petitions for leave to appeal the orders denying class certification
16 are pending before the U.S. Court of Appeals for the Ninth Circuit in *Torossian v.*
17 *Vitamin Shoppe Industries, Inc.*, Appellate Case No. 07-80135, and *Price v. Lucky Strike*
18 *Entertainment, Inc.*, Appellate Case No. 07-80168;

19 WHEREAS, the parties agree that a stay of this action will conserve judicial and
20 party resources, avoid unnecessary expenditures of time, effort, and money; and

21 WHEREAS, the parties agree that this Stipulation may be executed in
22 counterparts and that facsimile signatures shall be deemed acceptable signatures for the
23 purposes of this Stipulation.

24 NOW, THEREFORE, FOR GOOD CAUSE SHOWN, THE PARTIES, BY
25 AND THROUGH THEIR UNDERSIGNED COUNSEL, HEREBY STIPULATE AS
26 FOLLOWS:

1 1. That this action be stayed in its entirety pending resolution of the appeal
2 to the U.S. Court of Appeals for the Ninth Circuit in *Soualian v. Int'l Coffee and Tea,*
3 *LLC*, Appellate Case No. 07-56377.

4 2. The parties suggest that the Court set a status conference in April of 2008
5 to determine whether it is appropriate to continue the stay of this action. The parties
6 reserve the right to approach the Court at any time and, upon a showing of good cause,
7 seek modification, extension or termination of this order.

8 3. In the event the Court denies a stay of the proceedings, the Parties agree
9 that briefing on the Motion for Class Certification be adjusted to permit filing of the
10 Motion for Class Certification on November 2, 2007. Defendant shall file its
11 opposition on November 16, 2007. Plaintiff shall file her reply, if any, on November 26,
12 2007. To the extent the Court wishes to postpone hearing the Motion for Class
13 Certification from November 30, 2007, the parties request hearing on the motion as soon
14 thereafter as is convenient for the Court.

15 **IT IS SO STIPULATED.**

16 October 23, 2007

KELLER GROVER LLP

17
18 By: _____ /s/
Eric A. Grover
19 Denise L. Díaz
Attorneys for Plaintiff
20 INNA VIGDORCHIK

21 October 23, 2007

**AKIN GUMP STRAUSS HAUER &
FELD LLP**

22
23
24
25 By: _____ /s/
Reginald D. Steer
26 Chad A. Stegeman
Attorneys for Defendant
27 CENTURY THEATRES, INC

PROPOSED ORDER

Upon the Stipulation of the parties, and for good cause shown, this action is stayed in its entirety pending resolution by the Ninth Circuit Court of Appeals of the appeal of the order denying class certification in *Soualian v. Int'l Coffee and Tea, LLC*, Appellate Case No. 07-56377.

A status conference shall be set for April 25, 2008, to determine whether it is appropriate to continue the stay of this action. Further status conferences on the appropriateness of this stay shall be set thereafter. The parties reserve the right to approach the Court at any time and, upon a showing of good cause, seek modification, extension or termination of this order.


The parties shall submit a report on April 18, 2008, as to the status of the appeals in other FACTA cases, and any developments in this case. The parties will also inform the Court as to whether the stay should remain in place or be lifted.

~~The Motion for Class Certification shall be filed on November 2, 2007. Defendant shall file its opposition on November 16, 2007. Plaintiff shall file her reply, if any, on November 26, 2007. The hearing on the Motion for Class Certification is continued from November 30, 2007, at 10:30 a.m. to _____, 2007, at ____:~~

~~m.~~ The January 11, 2008 Status Conference is VACATED.

IT IS SO ORDERED.

DATED: _ October 25, 2007 _


The Honorable Maxine M. Chesley
U.S. District Court Judge